Crl. Misc. No. M-48695 of 2007

Gurpreet Singh v. State of Punjab

Present: Mr. Jaspal Kaur Gurna, Advocate with
Mr. Gaurav Bhayia, Advocate
for the petitioner.

Mr. Pardeep Goyal, Sr. DAG, Punjab.

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Heard learned counsel for the petitioner.

The petitioner seeks regular bail pending trial for the offences under Sections 304, 279 and 427 IPC registered at Police Station Thermal, Bathinda.

The FIR has been registered on the statement of Sanjeev Kumar who along with Rajesh Kumar and his brother Rajiv Kumar had come to Bathinda from Malout for official work. When they were coming back, they stopped at the railway crossing as the gate was closed. When the gate opened, an oil tanker coming from Malout side hit the car from its side. Sanjeev Kumar-complainant who was driving the car, turned around and chased the tanker. The complainant-Sanjeev Kumar found the tanker in front of Rose Garden. The driver of the tanker gave his name as Gurpreet Singh (petitioner). The complainant-Sanjeev Kumar protested about hitting their car. The petitioner then tried to run away with the tanker. However, Rajesh Kumar climbed the tanker from the driver side. The driver of the tanker, however, drove away the tanker towards the city, while the complainant-Rajeev Kumar chased the car. When the tanker reached in front of the 'sweet milan shop' then the petitioner threw Rajesh Kumar on the ground by giving him a push and drove away with the tanker. Rajesh Kumar was taken to the hospital where he died.

Learned counsel for the petitioner has contended that the prosecution story is absolutely false and it is the car of the complainant-Sanjeev Kumar which tried to get out of the rush in a hurry when the railway gate opened and then it hit the oil tanker. It is submitted that in fact one of the car occupants tried to get on to the running tanker and climbed it from the rear side in a 'filmi' stunt manner but unfortunately, he fell down and died. The petitioner, in fact, it is submitted was not even aware of the fact that a person had climbed his truck in such a dangerous manner. It is submitted that at best an offence under Section 304-A IPC and not Section 304 IPC is made out.

In response, learned counsel for the State has submitted that the petitioner clearly pushed Rajesh Kumar from the window, which resulted in his death. Therefore, an offence under Section 304 IPC is made out against the petitioner and he is not entitled to the concession of bail.

After giving my thoughtful consideration, it may be noticed that the allegations as made are to be considered and gone into after evidence has been led in the trial. It is to be considered on the basis of evidence and material as to whether the case falls under Section 304 or 304-A IPC. At this stage, it would be pre-mature to go into this aspect. The petitioner was arrested on 03.08.2007 and since then he is in custody. The investigation in the case is complete and the challan has been filed. In the circumstances, no purpose would be served in keeping the petitioner further imprisoned.

Accordingly, the petitioner on his furnishing personal bond and surety to the satisfaction of learned Chief Judicial Magistrate, Bathinda shall be admitted to bail.

Crl. Misc. petition stands disposed of.

(S.S. SARON)
JUDGE

November 22, 2007
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